

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48033 of 2022

Arising Out of PS. Case No.-46 Year-2022 Thana- UPHARA District- Aurangabad

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Rakesh Kumar @ Dishil S/o Aas Kumar Rawani @ Rajkumar Singh, R/o
village- Teyap, P.S.- Goh, District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 55907 of 2022

Arising Out of PS. Case No.-46 Year-2022 Thana- UPHARA District- Aurangabad

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Dinesh Singh S/o Jaynarayan Singh, R/o Village- Teyap, P.S.- Uphara,
District- Aurangabad, Bihar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 48033 of 2022)

For the Petitioner/s : Mr. Sunil Kumar Dubey, Adv.

For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP.

(In CRIMINAL MISCELLANEOUS No. 55907 of 2022)

For the Petitioner/s : Mr. Kumari Chandna, Adv.

For the Opposite Party/s : Mr. Dr. Mrityunjaya Kr. Gautam, APP.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 23-12-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioners and learned
A.P.Ps. for the State through virtual mode.

The petitioners seek regular bail in connection with
Uphara P.S. Case No. 46 of 2022 (corresponding to G.R.

(POCSO) No.39 of 2022, lodged under Sections 341, 323, 354, 354(B), 506/34 of Indian Penal Code read with Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

As per prosecution case, the informant disclosed that he runs a cosmetic store, on the alleged date of occurrence his daughter aged about 12 years was present at his shop. The informant told his daughter to go home but on the instigation of one Suchu Kumari who went to the house of informant and took his daughter to orchard, where the petitioner alongwith 2 other persons were present. The allegation against the petitioner of Cr. Misc. No. 48033 of 2022 is that with a view to commit rape he opened her *Pajama* but anyhow she has protected herself biting in petitioner's hand. The allegation against the petitioner of Cr. Misc. No. 55907 of 2022 is that he has prepared videography of the entire incident.

Learned counsel for the petitioner of Cr. Misc. No. 48033 of 2022 submits that the entire story of F.I.R. is highly absurd and improbable, it is unbelievable that one lady shall indulge herself in such type of activities. He also submits that ingredients of Section 8 of POCSO Act is not attracted due to the reason that ingredient of the said Section is not available as

per the allegations in the F.I.R. itself, even offence under Section 12 of POCSO Act is also not made out. He further submits that petitioner has not been arrested rather he himself surrendered in the Court on 28.06.2022 having clean antecedent.

Learned counsel for the petitioner of Cr. Misc. No. 55907 of 2022 submits that there is no allegation against the petitioner for outraging the modesty and only allegation against him is to prepare a videography of the said event. He further submits that the petitioner is in custody since 16.08.2022 having clean antecedent.

Learned counsel for the State vehemently opposes the prayer for bail and submits that as per contents of F.I.R. it is clear that one accused has tried to outrage the modesty and another accused has obtained photography and videography with a view to blackmail, therefore, they may not be granted bail.

In the present facts and circumstances of this case and the submissions made above, I am not inclined to grant bail to the petitioners at present, therefore, their bail applications are hereby **rejected**.

But liberty is hereby granted to the petitioners that they may renew their prayer for bail after two months of

framing of charge and the Trial Court is directed to release the petitioners on bail imposing its own condition, so that they may not evade their appearance during trial.

(Dr. Anshuman, J.)

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